

UNITED STATES PERMANENT MISSION TO THE
ORGANIZATION OF AMERICAN STATES
DEPARTMENT OF STATE
WASHINGTON, D.C. 20520

No. 32-B

The United States Mission to the Organization of American States presents its compliments to the Permanent Missions to the Organization of American States Secretariat and has the honor to inform them of the policies and procedures regarding the acquisition, construction, renovation, and use of real property owned by the Permanent Missions in the United States. The information provided in note No. 05-B, dated February 20, 2014, regarding property tax exemption, remains in effect.

Pursuant to section 209(a) of the Foreign Missions Act (22 U.S.C. § 4309(a)), the U.S. Department of State has determined that the application of all provisions of the Foreign Missions Act (22 U.S.C. §§ 4301-4316) to international organizations (and official missions to such organizations) is necessary to facilitate the secure and efficient operation of the organizations and the missions, to assist in obtaining benefits, privileges and immunities for the organizations and the missions, and to require their observance of corresponding obligations in accordance with international law. A copy of the associated Designation and Determination (No. FMA-2014-2, dated January 8, 2014) is enclosed.

Approval of Real Property Transactions

Pursuant to section 205 of the Foreign Missions Act (22 U.S.C. 4305), missions to international organizations, including the Permanent Missions to the Organization of American States, are obligated to obtain the approval of the Department's Office of Foreign Missions (OFM) before finalizing a proposed lease, purchase, sale, or other acquisition or



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disposition of real property in the United States. This requirement applies to all property transactions involving the Permanent Missions anywhere in the United States and its territories.

Absent OFM's approval of a proposed acquisition, use, or disposition of real property, the Permanent Missions are advised that their properties would be assumed not to enjoy any otherwise applicable privileges and immunities, including inviolability and exemption from real estate taxation.

In addition to the prior notification and approval of all leases, purchases, or sales of properties, the alteration, renovation, addition, or change in use of a property are also considered "acquisitions" under the Foreign Missions Act and must be approved by OFM. For this purpose, "alteration" includes any type of construction, repair, installation or other work that requires the issuance of a permit from the relevant and authorized local governmental authority.

The Permanent Missions should submit all such requests directly to OFM. At a minimum, the written request for approval should include:

1. The exact address of the property, including apartment, suite, or floor number;
2. The proposed or existing use of the property;
3. The proposed transaction, i.e., purchase, lease (including lease term), sale, alteration, or expansion;
4. The inclusion of one of the following statements:
 - No part of this property is or will be used for commercial purposes; or
 - A portion or all of this property is or will be used for commercial purposes and by doing so the Permanent Mission understands that such use deprives the area used for such purposes of any applicable inviolability or eligibility for exemption from real estate taxation.
5. The inclusion of the following statement: The Permanent Mission of [Country] to the Organization of American States acknowledges that it must request and obtain the approval of the Department of State's Office of Foreign Missions prior to changing the use of this property from that which is described in this request.

6. Alterations – A description of the proposed alteration or expansion of a property, including a listing of the anticipated types of permits needed to complete the project.
7. Residential – The name(s) and position title of the intended tenant/resident.
8. Point of Contact – The name and contact information of the Permanent Mission employee authorized to discuss the proposed property acquisition with OFM.

After receiving a request, 22 U.S.C. § 4305(a)(1) allows the Department a period of up to sixty (60) calendar days to review it. Although OFM is normally able to provide a response within a few weeks, the full review period may be required. Therefore, the Permanent Missions are encouraged to submit requests as far in advance as possible.

The Permanent Missions are encouraged to discuss proposed acquisitions, alterations, or dispositions of real property with OFM's Office of Diplomatic Property, Tax, Services & Benefits (OFM/PTSB) as early as possible. Entities that obtain the benefit of OFM's experience and advice in the early stages of an acquisition, alteration, or disposition may avoid unnecessary financial or legal complications.

Chancery for § 4306 Purposes

Designation and Determination No. FMA-2014-2 also provides that the principal offices of the Permanent Missions to the Organization for American States used for diplomatic or related purposes, and annexes to such offices (including ancillary offices and support facilities), and including the site and any building on such site which is used for such purposes, constitute a "chancery" for purposes of 22 U.S.C. 4306.

For chanceries or chancery annexes located in the District of Columbia, the determination as to whether a proposed location, expansion or alteration is acceptable is based on the rules and criteria in section 4306. The guidelines outlined in that section are separate from, and in addition to, the notification process outlined above that is mandated by section 4305. The following information is provided to assist missions that intend to acquire new chancery space or perform alterations to existing chanceries in the District of Columbia:

1. ***Permit Requirements:*** The Permanent Missions are required to request and obtain OFM's consent for the issuance of all property-related permits. This includes the issuance of an occupancy permit, which is generally required in the District of Columbia before a building or office may be occupied as a chancery or chancery annex. The Foreign Missions Act requires missions to substantially comply with all local building codes and regulations, including obtaining all appropriate building permits. The District of Columbia's permit applications are available at www.dcr.dc.gov.
2. ***Zoning Approval Process:*** Depending on the location of the property acquired, an occupancy permit may be issued by the District of Columbia as a "matter of right" only if the property is located in one of the following zoning districts: mixed use, commercial, industrial, or waterfront. If the property is not located in one of the aforementioned zoning districts, the Foreign Missions Board of Zoning Adjustment (FMBZA) of the District of Columbia must review and approve the request of the mission to locate its chancery at its proposed location. The FMBZA review process will take several months to complete and will include a public hearing. If an acquisition or alteration is determined to be subject to FMBZA review, it is recommended that foreign missions seek private legal representation to complete the approval process.

The information provided above about local zoning requirements for chancery use is not exhaustive, and the Permanent Missions are cautioned to fully explore the zoning and land-use implications of a particular property acquisition or alteration in the District of Columbia, including whether the property is considered historic and the construction implications of such status, before concluding any contract or agreement. Although the zoning approval process described above does not apply to locations outside the District of Columbia, the Foreign Missions Act requires foreign missions to substantially comply with all local building codes and regulations, including obtaining all appropriate building permits.

Verification of Permanent Missions' Properties

To ensure the accuracy of OFM's records, the Permanent Missions are also requested to provide OFM with a list of properties owned, leased, or otherwise used by the Permanent Missions in the United States, including:

1. The exact address of such properties, including apartment, suite, or floor numbers;
2. Whether the properties are owned or leased;
3. A description of the existing uses associated with such properties;
 - If the property is comprised of multiple floors or units, a general description of each floor's use(s) should be provided, such as "office use", "residential", or "commercial";
4. For leased properties, please provide the start and end dates of each lease;
5. The inclusion of one of the following statements with respect to each property that is owned by the mission or the government it represents:
 - No part of this property is used for commercial purposes; or
 - A portion or all of this property is used for commercial purposes, and by doing so, the Permanent Mission of [Country] to the Organization of American States understands that such use deprives the areas used for such purposes of inviolability and exemption from real estate taxation.

If a portion or all of a property is used for commercial purposes, the Permanent Missions are required to provide OFM with the square footage of any area used for commercial purposes.

The Permanent Missions to the Organization of American States are encouraged to contact OFM/PTSB at OFMProperty@state.gov or 202-895-3500 extension 5.

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DEPARTMENT OF STATE

[Public Notice 8596; No. FMA-2014-2]

Determination Under the Foreign Missions Act

Section 209(a) of the Foreign Missions Act (22 U.S.C. 4309(a)) (hereinafter "the Act") authorizes the Secretary of State to make any provision of the Act applicable with respect to international organizations to the same extent that it is applicable with respect to foreign missions when he determines that such application is necessary to carry out the policy set forth in section 201(b) of the Act (22 U.S.C. 4301(b)) and to further the objectives set forth in section 204(b) of the Act (22 U.S.C. 4304(b)).

Section 209(b) of the Act (22 U.S.C. 4309(b)) defines "international organization" as (1) a public international organization designated as such pursuant to the International Organizations Immunities Act (22 U.S.C. § 288 *et seq.*) or a public international organization created pursuant to a treaty or other international agreement as an instrument through or by which two or more foreign governments engage in some aspect of their conduct of international affairs; and (2) an official mission (other than a U.S. mission) to such a public international organization, including any real property of such an organization or mission and including the personnel of such an organization or mission.

Pursuant to the authority vested in the Secretary of State by the Act, and delegated by the Secretary of State to me as the Under Secretary of State for Management in Delegation of Authority No. 198, dated September 16, 1992, I hereby determine that the application of all provisions of the FMA to international organizations, as that term is defined in section 209(b), is necessary to facilitate the secure and efficient operation of public international organizations and the official missions to such organizations, to assist in obtaining benefits, privileges and immunities for these organizations, and to require their observance of corresponding obligations in accordance with international law. It will also further the objectives set forth in section 204(b) of the Act as it will assist in protecting the interests of the United States.

Furthermore, I determine that the principal offices of an international organization used for diplomatic or related purposes, and annexes to such offices (including ancillary offices and support facilities), and the site and any [*2927] building on such site which is used for such purposes constitute a "chancery" for purposes of section 206 of the Act (22 U.S.C. 4306).

This action supersedes the determinations under the Foreign Missions Act relating to permanent missions to the United Nations made by the Acting Secretary of State on December 7, 1982, and by the Secretary of State on June 6, 1983.

Dated: January 8, 2014.

Patrick F. Kennedy,

Under Secretary for Management.

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